

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

**MARY ANN SHELTON,  
Plaintiff,**

**VS.**

**WESTPOND UNIT II, LTD AND  
PF WESTPOND, LLC,  
Defendants.**

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**CIVIL ACTION NO. 5:22-cv-973**

**NOTICE OF REMOVAL OF CIVIL ACTION TO THE  
UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT**

TO THE HONORABLE UNITED STATES DISTRICT COURT:

Defendant, PF Westpond, LLC files this Notice of Removal under 28 U.S.C. § 1446(a) and respectfully shows the Court the following:

**I. INTRODUCTION**

1. Plaintiff is Mary Ann Shelton; Defendant is PF Westpond, LLC.
2. This is a premise liability case. On August 3, 2022, Plaintiff filed her First Amended Petition in Cause No. 2022CI08810 in the 225th Judicial District Court of Bexar County, Texas against Defendants, Westpond Unit II, Ltd. and PF Westpond, LLC.
3. Removal is based on diversity jurisdiction because the amount in controversy exceeds \$75,000, exclusive of interest and costs, and there is complete diversity between Plaintiff and Defendant.

**II. GROUNDS FOR REMOVAL**

4. This Court has original jurisdiction over this civil action pursuant to 28 U.S.C. § 1332(a) because the parties involved are citizens of different states, and the matter in controversy exceeds \$75,000, exclusive of interest and costs.

5. Plaintiff states in her First Amended Petition that she seeks monetary relief of over \$200,000.00 but not more than \$1,000,000.00 at this time. Exhibit A.

6. Plaintiff is now, and, at the commencement of this action was, a resident of the State of Texas. Exhibit A.

7. Defendant, PF Westpond, LLC was at the time of the commencement of this action, and is now a corporation duly incorporated under and by virtue of the laws of the State of Delaware and was not and is not incorporated under and by virtue of the laws of the State of Texas. Exhibit A. Defendant, PF Westpond, LLC had, at the time of the commencement of this action, and now has its principal place of business in Laguna Niguel, California and by virtue of having its principal place of business in Laguna Niguel, California, was not and is not a citizen of the State of Texas. Exhibit A.

8. Defendant, Westpond Unit II, LTD was a limited liability corporation limited liability corporation duly authorized and licensed to do business in the State of Texas with its principal place of business at 1850 Lockhill-Selma, Ste. #100, San Antonio, Texas 78213. Exhibit A.

9. Plaintiff joined Defendant, Westpond Unit II, LTD solely to defeat diversity jurisdiction. Defendant, PF Westpond, LLC, a diverse defendant, was joined with Defendant, Westpond Unit II, LTD, a nondiverse defendant but (1) there is no joint, several, or alternative liability between the two defendants and (2) Plaintiff's claim against Defendant, Westpond Unit II, LTD has no real connection to the claim against Defendant, PF Westpond, LLC.

10. In Plaintiff's First Amended Petition, she alleges that she tripped and fell at the Westpond Apartments located at Westpond Apartments, 19[8]0 Horal St., San Antonio, TX 78227.

Exhibit A. The Westpond Apartments located at 1980 Horal Street, San Antonio, Texas 78227 are owned by Defendant, PF Westpond, LLC. Exhibit A.

11. Defendant, Westpond Unit II, LTD voluntarily terminated its partnership on December 27, 2006.

12. There is no reasonable basis for believing that Plaintiff could recover from Defendant, Westpond Unit II, LTD in state Court.

13. Accordingly, removal is proper under 28 U.S.C. §§ 1332, 1441 and 1446 due to the existence of diversity and the amount in controversy exceeding \$75,000.00

### **III. VENUE**

14. Venue for removal is proper in this district and division under 28 U.S.C. § 1441(a) because this district and divisions embrace the place in which the removed action was pending, the 225th Judicial District Court of Bexar County, Texas, and a substantial part of the events giving rise to Plaintiff's claims allegedly occurred in that district.

### **IV. PROCEDURAL REQUIREMENTS**

15. Pursuant to 28 U.S.C. § 1446(a), the following exhibits are attached and indexed:

<b><u>EXHIBIT</u></b>	<b><u>DESCRIPTION</u></b>
<b>A.</b>	<b>Plaintiff's First Amended Petition</b>
<b>B.</b>	<b>Citation to Defendant, PF Westpond, LLC</b>
<b>C.</b>	<b>Defendant, PF Westpond, LLC's Original Answer</b>

16. This Notice of Removal is timely filed under 28 U.S.C. § 1446(b) because Defendant, PF Westpond, LLC was served with Plaintiff's First Amended Petition and Request for Disclosure on or about August 9, 2022.

17. Consent of Defendant, Westpond Unit II, LTD whose consent is not required is not

necessary because Defendant, Westpond Unit II, LTD has not been properly joined and served.

18. Pursuant to 28 U.S.C. § 1446(a), copies of all pleadings, process, orders, and other filings in the state-court suit are attached to this notice.

19. Pursuant to 28 U.S.C. § 1446(d), written notice of filing of this Notice of Removal will be given to all adverse parties promptly after the filing of same.

20. Pursuant to 28 U.S.C. § 1446(d), a true and correct copy of this Notice will be filed with the Clerk of the 225th Judicial District Court of Bexar County as provided by law.

#### **V. JURY DEMAND**

21. Plaintiff and Defendant made a demand for a jury trial in the state-court suit.

#### **VI. CONCLUSION**

22. Removal is proper because the amount in controversy exceeds the sum of \$75,000.00 and there is complete diversity between the parties. For these reasons Defendant, PF Westpond, LLC asks the Court to remove suit to the Western District of Texas – San Antonio Division.

Respectfully submitted,

THE LISENBY LAW FIRM, P.C.  
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By: 

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ATTORNEYS FOR DEFENDANT  
PF WESTPOND, LLC

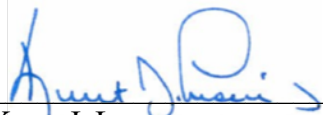
**Certificate of Service**

I hereby certify that, on September 7, 2022, a true and correct copy of the foregoing instrument was served via the Court's ECF system on the following counsel of record in accordance with the Federal Rules of Civil Procedure:

**VIA ESERVICE**

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W. Travis Patterson  
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Kolter R. Jennings  
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ATTORNEYS FOR PLAINTIFF  
MARY ANN SHELTON



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KENT J. LISENBY